

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JAMES KOMMER, on behalf of himself and all  
others similarly situated,

Plaintiff,

- against -

BAYER CONSUMER HEALTH,  
a division of Bayer AG, BAYER  
CONSUMER CARE HOLDINGS LLC,  
BAYER HEALTHCARE LLC, BAYER  
CORPORATION, and MSD CONSUMER  
CARE, INC.,

Defendants.  
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No. 1:16-cv-01560 (DAB)

**DECLARATION OF JAMES D. ARDEN IN SUPPORT  
OF DEFENDANTS' MOTION TO DISMISS**

I, James D. Arden, hereby declare under penalty of perjury the following:

1. I am a partner of Sidley Austin LLP, attorneys for Defendants Bayer Consumer Care Holdings LLC, Bayer HealthCare LLC, and Bayer Corporation, and admitted to practice before this Court. I submit this declaration in support of Defendants' Motion to Dismiss the First Amended Complaint pursuant to Federal Rules of Civil Procedure 8, 12(b)(1), and 12(b)(6), in order to place before the Court a document, the "Kiosk Language" upon which Plaintiff relies and to which he refers throughout the Complaint.

2. A true and correct copy of the Kiosk Language is attached to this Declaration as Exhibit A.

Dated: May 6, 2016

/s/ James D. Arden

James D. Arden